

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

LAURA ROBIN O'BRIEN
160 Random Way
Pleasant Hill, CA 94523

Registered Nurse License No. 644782

Respondent

Case No. 2012-605

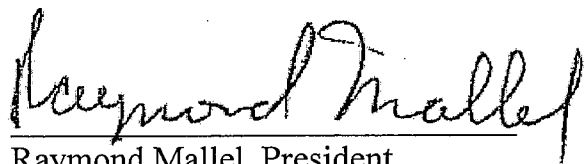
OAH No. 2012050355

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **March 20, 2013.**

IT IS SO ORDERED **March 20, 2013.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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Supervising Deputy Attorney General
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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 **LAURA ROBIN O'BRIEN**
13 **4130 Chaucerway**
14 **Concord, California 94521**

15 **Registered Nurse License No. 644782**

16 Respondent.

Case No. 2012-605

OAH No. 2012050355

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
19 proceeding that the following matters are true:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
22 Registered Nursing. She brought this action solely in her official capacity and is represented in
23 this matter by Kamala D. Harris, Attorney General of the State of California, by Timothy J.
24 McDonough, Deputy Attorney General.

25 2. Laura Robin O'Brien (Respondent) is representing herself in this proceeding and has
26 chosen not to exercise her right to be represented by counsel.

27 3. On or about September 14, 2004, the Board of Registered Nursing issued Registered
28 Nurse License No. 644782 to Laura Robin O'Brien (Respondent).

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1 professional licensing agency is involved, and shall not be admissible in any other criminal or
2 civil proceeding.

3 CONTINGENCY

4 11. This stipulation shall be subject to approval by the Board of Registered Nursing.
5 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
6 Registered Nursing may communicate directly with the Board regarding this stipulation and
7 surrender, without notice to or participation by Respondent. By signing the stipulation,
8 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind
9 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
10 this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be
11 of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
12 between the parties, and the Board shall not be disqualified from further action by having
13 considered this matter.

14 12. The parties understand and agree that facsimile copies of this Stipulated Surrender of
15 License and Order, including facsimile signatures, shall have the same force and effect as the
16 originals.

17 13. This Stipulated Surrender of License and Order is intended by the parties to be an
18 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
19 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
20 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
21 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
22 executed by an authorized representative of each of the parties.

23 14. In consideration of the foregoing admissions and stipulations, the parties agree that
24 the Board may, without further notice or formal proceeding, issue and enter the following Order:

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ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 644782, issued to Respondent Laura Robin O'Brien, is surrendered and accepted by the Board of Registered Nursing.

1. The surrender of Respondent's Registered Nurse License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Registered Nursing.

2. Respondent shall lose all rights and privileges as a Registered Nurse in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 2012-605 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.


5. If and when Respondent's license is reinstated, she shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$9,128.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 2012-605 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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LAURA ROBIN O'BRIEN
Respondent

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11-7-2012

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L. [unclear]

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Exhibit A

Accusation No. 2012-605

1 KAMALA D. HARRIS
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2 DIANN SOKOLOFF
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3 TIMOTHY J. McDONOUGH
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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-605

13 **LAURA ROBIN O'BRIEN**
4130 Chaucer Way
Concord, CA 94521

ACCUSATION

14 **Registered Nurse License No. 644782**

15 Respondent.

16
17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about September 14, 2004, the Board of Registered Nursing issued Registered
24 Nurse License Number 644782 to Laura Robin O'Brien (Respondent). The Registered Nursing
25 License was in full force and effect at all times relevant to the charges alleged in this Accusation
26 and will expire on March 31, 2014, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in relevant part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in relevant part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Section 2811, subdivision (b) of the Code provides that the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

7. Section 2761 of the Code states, in relevant part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions."

8. Section 2762 of the Code states, in relevant part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

1 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
2 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
3 administer to another, any controlled substance as defined in Division 10 (commencing with
4 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
5 defined in Section 4022.

6 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
7 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
8 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
9 himself or herself, any other person, or the public or to the extent that such use impairs his or her
10 ability to conduct with safety to the public the practice authorized by his or her license."

11 9. California Code of Regulations, title 16, section 1443, states:

12 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the
13 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
14 exercised by a competent registered nurse as described in Section 1443.5."

15 10. Section 4022 of the Code states:

16 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in
17 humans or animals, and includes the following:

18 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
19 prescription," "Rx only," or words of similar import.

20 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale
21 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled
22 in with the designation of the practitioner licensed to use or order use of the device.

23 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
24 prescription or furnished pursuant to Section 4006."

1 DRUG STATUTES

2 11. Hydromorphone is a Schedule II controlled substance as designated by Health and
3 Safety Code section 11055(b)(1)(k), and a dangerous drug as designated by Business and
4 Professions Code section 4022.

5 COST RECOVERY

6 12. Section 125.3 of the Code provides, in relevant part, that the Board may request the
7 administrative law judge to direct a licentiate found to have committed a violation or violations of
8 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
9 enforcement of the case.

10 **FIRST CAUSE FOR DISCIPLINE**
11 **(Unprofessional Conduct-Incompetence)**
12 **(Bus. & Prof. Code § 2761(a)(1))**

13 13. Respondent has subjected her nursing license to discipline for unprofessional conduct
14 under Code section 2761, subdivision (a)(1)(incompetence, or gross negligence in carrying out
15 usual certified or licensed nursing functions) in that she diverted narcotic medication from
16 patients while working as a per-diem nurse at Kaiser Oakland Medical Center (Kaiser-Oakland)
17 in Oakland, California. The circumstances are as follows:

18 14. On or about August 16, 2007, the interim Service Director of Adult Patient Care
19 Services at Kaiser-Oakland (Director) received a phone call from one of the nurse managers
20 alerting him to possible drug diversion by Respondent. The Inpatient Pharmacy Director
21 (Pharmacy-Director) at Kaiser-Oakland performed an audit regarding Respondent's removal of
22 Hydromorphone from the Pyxis¹ machine. Between August 6, 2007 and August 16, 2007,
23 Respondent removed sixty-four doses of Hydromorphone from the Pyxis machine for various
24 patients. A review of the medical records for these patients showed that Respondent failed to
25 chart or otherwise account for fifty-three doses of the Hydromorphone.

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27 ¹ A Pyxis machine is an automated dispensing system for medications kept in nursing
28 units.

1 15. Respondent was interviewed by the Director and the Pharmacy-Director regarding the
2 diversion of Hydromorphone. Respondent admitted during that interview that she diverted
3 Hydromorphone from patients TG, WB, and MS by using their existing Pyxis orders for the
4 medication. These patients had physician orders for Hydromorphone 2 or 4 mg syringe to be
5 given every four hours as needed. Respondent did not chart or otherwise account for the
6 administration of the Hydromorphone that she removed from the Pyxis machine. Respondent
7 self-administered the Hydromorphone.

8 **SECOND CAUSE FOR DISCIPLINE**
9 **(Unprofessional Conduct-Illegally Possessing Controlled Substance)**
 (Bus & Prof. Code § 2762(a))

10 16. Complainant re-alleges the allegations contained in paragraphs 13 through 15, and
11 incorporates them as if fully set forth.

12 17. Respondent has subjected her nursing license to discipline for unprofessional conduct
13 under code section 2762, subdivision (a) (unprofessional conduct relating to illegal possession of
14 controlled substances), in that she diverted Hydromorphone, which was ordered for 3 different
15 patients, for her own use while working as a nurse at Kaiser-Oakland.

16 **THIRD CAUSE FOR DISCIPLINE**
17 **(Unprofessional Conduct—Use of Controlled Substances)**
 (Bus. & Prof. § 2762(b))

18 18. Complainant re-alleges the allegations contained in paragraphs 13 through 15, and
19 incorporates them as if fully set forth.

20 19. Respondent has subjected her nursing license to discipline for unprofessional conduct
21 under code section 2762, subdivision (b) (unprofessional conduct relating to use of controlled
22 substances), in that she self-administered Hydromorphone which she diverted from patients while
23 working as a nurse at Kaiser-Oakland.

24 **OTHER MATTERS**

25 20. After the initial complaint regarding Respondent's drug diversion, Respondent was
26 allowed to participate in the Board's Diversion Program, a monitoring program for chemically
27 dependent/mentally ill registered nurses. As a result, disciplinary action was suspended pending
28 the outcome of Respondent's participation in the program. However, on or about June 8, 2010,

1 Respondent was terminated from the program due to her failure to comply with provisions of the
2 rehabilitation program. At that time, Respondent was deemed a public safety risk.

3 PRAYER


4 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
5 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Revoking or suspending Registered Nurse License Number 644782, issued to Laura
7 Robin O'Brien;

8 2. Ordering Laura Robin O'Brien to pay the Board of Registered Nursing the reasonable
9 costs of the investigation and enforcement of this case, pursuant to Business and Professions
10 Code section 125.3;

11 3. Taking such other and further action as deemed necessary and proper.
12
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14 DATED: April 04, 2012


15 LOUISE R. BAILEY, M.ED., RN
16 Interim Executive Officer
17 Board of Registered Nursing
18 Department of Consumer Affairs
19 State of California
20 Complainant

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